United Nations A/56/1003

General Assembly

Distr.: General
10 July 2002
English
Original: Spanish

Fifty-sixth session
Agenda item 44
The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations verification mission in Guatemala

Report of the Secretary-General

Summary

This is the seventh report on the verification of compliance with the peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca, submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala by the General Assembly in its resolution 51/198 B of 27 March 1997. This mandate was extended until 31 December 2002 by resolution 56/223 of 24 December 2001, in which the General Assembly requested the Secretary-General to keep it informed. This report covers the period from 1 April 2001 to 30 April 2002.

Implementation of the peace agreements has lagged during the reporting period. Based on developments in the past year, it is clear that the path to a firm, lasting and irreversible peace is still under construction. The Secretary-General therefore encourages the Government and the people of Guatemala to redouble their efforts to consolidate the peace, and reiterates the commitment of the United Nations to support this process.

02-47613 (E) 160802 160802

I. Introduction

1. This is the seventh report on the verification of compliance with the peace agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala (MINUGUA) by the General Assembly in resolution 51/198 B of 27 March 1997. This mandate was extended until 31 December 2002 by resolution 56/223 of 24 December 2001, in which the General Assembly repeated its request that I should keep it informed. This report covers the period from 1 April 2001 to 30 April 2002.

2. During the reporting period, the Mission continued its verification activities, preserving the structure and deployment that I described in my previous report (A/55/973). It also continued to support the process of coordinating with the agencies, programmes and funds of the United Nations so that the peace agreements provide the framework for the technical and financial assistance programmes.

3. In 2001, the peace process made little progress. However, with the aim of establishing targeted sectoral partnerships on urgent topics, the Commission to Follow-up the Implementation of the Peace Agreements, which is composed of representatives of civil society and one member of Congress, submitted priority agendas for the three branches of government. Subsequently, in an effort to meet the expectations of various members of civil society, the Commission presented to the Minister of Finance 12 measures linked to the Fiscal Pact and a programme giving priority to spending for peace, to be taken into consideration during drafting of the budget for the year 2002. Implementation of the agendas and the 12 measures was slow and showed little progress.

4. The Congress approved some measures provided for in the Fiscal Pact, such as an increase in some taxes and the strengthening of the State's sanctioning capacity. Since these measures were approved, the internal political debate has polarized. The Government was accused of corruption and there were anti-Government demonstrations which were aimed at prompting its resignation. In August 2001, the private sector staged a protest strike, which turned violent in some provinces. The Government overreacted, declaring a state of siege in the department of Totonicapán.

5. In June 2001, my Chef de Cabinet and Assistant Secretary-General, Mr. Iqbal Riza, visited Guatemala, at my request. He suggested that a frank and constructive dialogue be initiated, which would make it possible to resolve current problems and overcome the climate of tension that prevailed in the country at that time. At the end of January 2002 and at the Government's request, a delegation from the Organization of American States (OAS) visited the country and concluded that the conditions for dialogue did not exist.

6. As of the end of 2001, many of the commitments that had been rescheduled for that year had not been fulfilled (A/55/973, para. 4). Despite the efforts made as regards taxes, it was clear that the target for the tax burden provided for in the Agreements would not be attained. There are worrying signs of militarization within the civilian authorities, especially at the Interior Ministry. The Ministry of Defence received a number of credits, which increased its budget to 0.96 per cent of Gross Domestic Product (GDP). This increase represents a serious breach of the spending target commitment set out in the Peace Agreements. On the other hand, social programmes related to the peace process encountered financial difficulties. The Ministries of Education and Health suffered real constraints regarding access to funds, especially with regard to investment projects.

7. The Government, with the assistance of the Inter-American Development Bank, organized the meeting of the Consultative Group on Guatemala, which took place in Washington, D.C., from 10 to 12 February 2002. The Peace Agreements and the degree of progress made towards their implementation were the central focus of the agenda. At the Government's invitation, a broad and diverse sector of Guatemalan civil society participated in the meeting, which was held in a climate of mutual respect, dialogue and readiness to work together to find ways to make progress with the Peace Agreements.

8. The international community confirmed its support for the peace process in Guatemala, but also expressed deep concern about the lack of progress. It also expressed its opinion about the responsibility of civil society, including the business sector, to comply with the peace agenda. At the conclusion of the

Consultative Group meeting, the following nine goals were selected for priority action: (a) to speed up implementation of the Peace Agreements; (b) to guarantee appropriate budget allocations; (c) to improve the tax situation; (d) to begin a process of consultation with civil society on the poverty reduction strategy; (e) to approve comprehensive reform of the financial sector; (f) to end impunity, improve citizens' security and guarantee human rights; (g) to revitalize the economy; (h) to increase transparency; and (i) to promote dialogue and national unity.

9. To ensure that the results of the meeting are followed up, the Government drafted a matrix for follow-up of the nine key areas identified by the Consultative Group, including a timetable for their implementation. When introducing it to the public, the Peace Secretary noted that it was not a substitute for the Government's pledge to fulfil the rescheduled commitments.

10. In order to follow up on the results of the meeting, the Dialogue Group, which is composed of the Ambassadors to Guatemala of 12 cooperating countries, and civil society were invited to monitor the timetable. The United Nations system and the Organization of American States (OAS) were asked to provide forums for dialogue. Subsequently, the Follow-up Commission was added to these follow-up mechanisms.

11. During the first four months of 2002, a series of events occurred which blocked the advance of the peace process — there were deaths, abductions and reports of threats and intimidation against human rights organizations, members of the church, political activists, journalists and others. The President of the Bank of Guatemala was abducted in February, held for three days and then released. Most of these incidents have not been fully investigated and this has given rise to various theories. The Government took the matter up again under the auspices of the Office of Human Rights and Security; the latter met several times with representatives of social organizations in May 2002.

12. At the same time, the number of social demands has increased in the country's interior regions. There were signs of discontent due to lack of access to basic services and clashes occurred between mayors and deputies regarding implementation of development projects and the use of municipal funds. During the first few months of 2002, there was an increase in the number of farm occupations linked to labour demands and recovery of illegally awarded State lands and land seized in the past. This increased the level of tension in certain regions of the country.

13. The General Budget of State Revenues and Expenditures for the year 2002 allocates very little for priority institutions and programmes for peace, including, especially, the Peace Secretariat (SEPAZ), the Ministry of Education, the institutions in charge of compensation, the Guatemalan Housing Fund, the Secretariat for Administrative Affairs and Security, the judiciary and the National Civil Police.

14. At the beginning of 2002, the Congress appointed new magistrates to serve on the Supreme Electoral Court for the period 2002-2008. In May the new Attorney General of the Republic and Chief State Counsel were appointed. A new Counsel for Human Rights and a new Comptroller General will also assume their functions this year. Since these institutions monitor the activities of public institutions, the election of these officers must be transparent and participatory, to ensure a high degree of professionalism and integrity.

15. In April 2002, the Government signed an agreement with the International Monetary Fund. The agreement seeks to improve macroeconomic, monetary and fiscal performance, support social spending and reorganize the financial system. The accord limits the Government's debt, in return for assurances that it will finance the peace agreements. In relation to this agreement, the Congress approved several initiatives: the Banking Act, the Act on Financial Groups, the Act on Financial Supervision, the Act organizing the Bank of Guatemala and the Monetary Act.

16. Broad sectors of the population continue to live in conditions of poverty and extreme poverty. For many Guatemalans, especially indigenous peoples, women and rural workers, the benefits of the Peace Agreements have not extended much beyond the end of the internal armed conflict. Implementation of the Peace Agreements is not proceeding quickly enough. Nevertheless, it is encouraging to note that, in February 2002, the Consultative Group provided new impetus for compliance with the Peace Agreements, especially in the legislative sphere.

II. Implementation of the Peace Agreements

A. Commitments to indigenous peoples

17. Implementation of the Agreement on Identity and Rights of Indigenous Peoples is still seriously behind schedule. However, since the Consultative Group meeting, certain actions have been taken which have opened the way to its implementation, which must proceed without delay. I am particularly gratified to note the approval of the new Urban and Rural Development Councils Act, the new Decentralization Act and the reforms introduced to the Municipal Code. This legislation represents a significant advance towards fulfilment of commitments on decentralization and social participation contained in the Agreements. The Urban and Rural Development Councils Act extends participation in the councils to indigenous peoples. The regulations needed for the entry into force of the Act are currently being drafted. I hope that its dissemination and application, combined with efforts to strengthen the organizations called upon to participate, will help bring qualitative changes in participation by Guatemalans in decisions on their development.

18. Indigenous peoples continue to suffer significant discrimination. The indigenous population makes up around half of Guatemala's total population and lives in departments with the highest poverty levels, often without access to public services. Most of the 556,000 children who do not attend school are indigenous and the highest illiteracy levels are found in rural areas of departments where the majority of the population is indigenous.

19. Mechanisms for consultation with indigenous peoples continue to be weak. The proposals made by the Commissions provided for in the agreement relating to indigenous peoples have not been acted upon. For example, the land registry act proposed by the Joint Commission on Rights relating to Indigenous Peoples' Land has yet to be adopted. Although recent approval of the Urban and Rural Development Councils Act may strengthen the capacity of indigenous peoples to engage in dialogue with the State, there are, as yet, no mandatory consultation mechanisms guaranteeing participation by indigenous peoples. ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which Guatemala has ratified, is the main international instrument regarding indigenous rights. It is hoped that the unit in the Ministry of Labour that deals with Convention No. 169 will take steps to speed up implementation of the Convention in the labour sphere.

20. The Office for the Defence of Indigenous Women's Rights, supported by international cooperation, has been working to defend and promote the human rights of indigenous women. The authorities must provide the necessary resources in order to strengthen it. The new programme concerning offices for the defence of indigenous peoples of the Public Institute for Criminal Defence, is also important, and MINUGUA will verify its implementation.

21. In April 2002, it was announced that the Telecommunications Superintendency would resume the auction sales of radio frequencies, which had been suspended when the present administration took office. Social organizations and the Follow-up Commission requested that the Minister of Communications, Infrastructure and Housing put an end to the practice. The Minister granted the request and indicated her willingness to back an amendment to the Radio Communications Act, in accordance with the Peace Agreements. Having been appointed to prepare the draft legislation, the Joint Commission on Reform and Participation decided to rearrange its work schedule to begin this urgently important task.

B. Resettlement, integration and reconciliation

22. Sustainable resettlement of the uprooted population in conditions of dignity, as well as the definitive integration of the URNG, and the productive integration of both population groups, continue to be hampered by the absence of a comprehensive policy on rural development. The organizations representing both populations continue to play an important role. However, there is concern over the delays in meeting the commitments on productive integration in the context of regional policies on sustainable development.

23. The process of reintegrating both population groups has not received the support of the Productive Projects Trust. Even though the Trust was set up in October 2001, the Government has still not allocated the necessary financial resources. The situation of the

displaced, especially women, is all the more serious because the process of providing access to land is proceeding slowly, despite the priority accorded to this population group in the Agreements. The most significant advances have been made in the area of housing; the first phase of the programme, which earmarked 200 million quetzales ($25 million) for the uprooted and demobilized populations has been implemented. In view of the lack of resources, there is some concern that the programme may not be able to continue in 2002.

24. During 2001, little progress was made in implementing the framework agreement for integrating the uprooted population into the national education system, and no significant progress has been achieved in that regard during 2002. Regarding documentation, the Special Temporary Act on Personal Documentation was extended until July 2002, although at the time of writing, the extension had not yet entered into force. Despite temporary measures for issuing personal identification documents, lack of such documents remains a problem affecting mainly displaced persons and indigenous women. Since such documents are crucial to the exercise of citizenship, it is essential that the Government seek a comprehensive solution to this problem.

25. Housing and production projects aimed at achieving the definitive integration of demobilized URNG combatants are currently benefiting from more resources. However, no significant progress has been made regarding the purchase of land through the Land Trust Fund, and programme beneficiaries are finding it very hard to repay their loans. The lack of jobs continues to be a serious problem. Little progress has been made regarding services for the disabled. In June 2001 the Government created a commission to monitor the integration of the URNG, thereby giving continuity to other previous entities, but its budget was substantially cut in 2002.

26. The dialogue between the Government and human rights organizations on the creation of a national compensation programme for victims of the armed conflict was put on hold when the organizations concerned protested the lack of funds earmarked for the programme in the 2002 budget. Not only has no progress been made on programme preparation, but the lack of resources for the Peace Secretariat is threatening the continuity of the pilot compensation projects that have been running for many years.

27. I note with great concern that, although three years have gone by since the Clarification Commission presented its report, its recommendations have yet to be implemented. I would like to reiterate that, in order to move ahead with the reconciliation proposed in the Peace Agreements, it is essential to have a functioning Commission for Peace and Harmony, under the terms set out by the Clarification Com ission. The Commission for Peace and Harmony would be responsible for monitoring implementation of the recommendations of the Clarification Commission. The latter recommended inter alia that a search be conducted for children who disappeared during the conflict, that war victims be compensated and that a government programme be set up to carry out exhumations.

C. Comprehensive human development

Education

28. The first aim of education reform was to give priority to the development of curricula and to improving teachers' professional skills. At the end of 2001, a curriculum was approved for the pre-primary level, but the same has yet to be done for the other levels. It is important that the curricula reflect the country's linguistic and cultural identity.

29. The commitment regarding ensuring that all children between 7 and 12 years of age have access to at least three years of schooling has not been fulfilled. In order to reduce the illiteracy rate to 30 per cent a clear strategy is needed, together with the National Literacy Programme. Moreover, the cuts in the education budget for 2001 and 2002, have led to the postponement of programmes concerning school lunches, classes in civics and values and training of teachers and education administrators. Financial resources for bilingual and intercultural education have also been cut back. I note with concern that the education budget approved by Congress for the year 2002 does not meet the targets set out in the Peace Agreements.

Health

30. Budget cuts imposed in various areas of the health sector during 2001 made it hard to provide quality services, especially in the most remote areas. The Integrated Health Care System was extended to a

further 2.9 million people, which is only half the total of those without access to services. There continues to be a shortage of medicines, adequate facilities and human resources. An evaluation of the system must be undertaken as a matter of urgency.

31. A new programme has been introduced for the prevention of the five most common and serious childhood diseases. Vaccination coverage against polio and measles among children under one year old increased to 85 per cent and 88 per cent respectively, and the country received its certification for polio eradication. It is to be hoped that coverage of the programme of access to medicines will be extended to the country's rural areas. The Ministry of Health also submitted its proposal to include popular traditional medicine in official health-system networks.

Housing

32. The problem of the housing sector is not just insufficient resources, but also the absence of institutional mechanisms for implementing housing programmes, and for their monitoring and supervision by the Ministry of Communications, Infrastructure and Housing. The Deputy Housing Minister promoted a process of consultation and discussion with different sectors to formulate national housing policy, as mentioned in the Peace Agreements, which would give priority to lower-income sectors. This initiative, which promoted citizens' participation, was ratified in August 2001 as State policy. The Deputy Housing Minister, the Board of the Guatemalan Housing Fund and the Secretariat for Specific Affairs have begun efforts to create the participatory mechanisms provided for under this policy. However, a budget is needed in order to implement this policy through adequate programmes.

Commitments regarding women

33. I note with satisfaction the ratification, last December, of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the adoption of the Social Development Act. These instruments will help advance recognition of and compliance with women's specific rights.

34. The commitment made by departmental governors, who signed a declaration, in July 2001, stipulating that the goals of the policy concerning women will be included in development plans is an important step towards the institutionalization of the National Policy for the Promotion and Advancement of Guatemalan Women, promoted by the Presidential Secretariat for Women. It should be noted that units whose purpose is to promote the advancement of women have been set up in a number of ministries and social funds.

D. Sustainable productive development

Rural development

35. Since October 2000, various civil-society representatives have been putting forward proposals for rural development policy. The Government's own proposals centre on a poverty-reduction strategy put forward by the Secretariat for Planning and Programming in the Office of the President, and an agricultural development programme put forward by the Ministry of Agriculture, Livestock and Food. Differences of opinion between the peasants' organizations and the presidential committee dealing with the issue are preventing the promised agreement on a rural development policy from being reached.

36. Between its establishment in 1997 and December 2001, the Land Trust Fund allocated 130 farms to 10,416 families and has regularized land tenure in a large number of cases, though there has been no progress in recovering land wrongly awarded. In 2001, the Land Trust Fund did not receive all the funds earmarked for it in the budget. Its budget allocation for 2002 is significantly lower than it requested and it will therefore be unable to cope with the high demand for credit; as a result there may be a heightening of social and political tension in the countryside.

37. On 23 April 2002, a number of Land Trust Fund offices were occupied by members of the National Council for Displaced Guatemalans who were seeking access to land and disbursement of funds in order to revive economic activity on the farms that had already been bought. The Follow-up Commission became involved and decided to propose that the Land Trust Fund be assessed. At the same time, the Ministry of Finance and the Congress took steps to increase its budget.

38. Passage of a bill establishing an agrarian and environmental jurisdiction is the main commitment concerning agrarian legislative reform. A land registry bill is currently before the Congress. It has been

endorsed by the Follow-up Commission and has been widely debated between the Government and civil society (including the peasant and indigenous people's movements).

39. The establishment of the Ministry of the Environment and Natural Resources is a positive signal in this regard. The Mission welcomes the programme for managing municipal woodlands launched by the National Forestry Institute. However, since they lack secure title to the land indigenous communities and small-scale farmers do not have access to the benefits given by the Government in return for reafforestation activities. The National Council for Protected Areas was ranked first in the world in terms of the number of community forestry management concessions granted in Petén, although there continue to be problems regarding the establishment of protected areas in which the indigenous communities have no involvement or rights, as happened in the Visís Cabá biosphere reserve.

40. The Rural Development Bank significantly increased its credit portfolio and financial services, mainly in the departments most affected by rural poverty. However, most poor peasants remain outside the financial system, because they lack secure title to the land and because community rights are not recognized for the purpose of obtaining credit. It is essential to establish a financial system that will integrate poor peasants in the formal economy and recognize community guarantees.

Labour

41. The bill dealing with judicial procedure for labour issues provides for swifter and more efficient protection of labour rights. I hope that whatever amendments are adopted are the result of wide consultation and consensus. Although the amendments to the Labour Code are a step forward in the country's existing legal framework, there is no way, as yet, to clearly evaluate their impact because of the cases still before the Constitutional Court and the shortcomings in the Ministry of Labour and Social Security. The recently ratified International Labour Organization (ILO) Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the national plan for the prevention and elimination of child labour and protection of adolescent workers have not been adequately enforced.

Social security

42. The Guatemalan Social Security Institute has not been consolidated, nor have the commitments to universality and quality of services been fulfilled. Indigenous peoples have yet to be included in the social security arrangements, and health services under the Institute's responsibility and control (as required by ILO Convention 169) have yet to be set up. The Government's plans to review the social security system should not prevent it from fulfilling pending commitments.

E. Modernization of the democratic State

Tax policy

43. The progress in implementing the fiscal pact has been backed up by a substantial body of legislative measures to increase the penalty for tax evasion and to combat corruption. Despite those steps, and despite some tax increases (particularly value added tax), the tax burden target of 12 per cent, which had been rescheduled for 2002, will not be reached. The figure for 2001 was only 9.6 per cent, and although the Government had hoped to reach 10.7 per cent in 2002, the Ministry of Finance has indicated that that is unlikely. The aim of attaining the goals set in the Peace Agreements step by step by 2004 may be jeopardized as a result.

44. Towards the middle of 2001, the Follow-up Commission presented to the Minister of Finance 12 priority measures to promote comprehensive implementation of the Pact and a public spending programme, which was to be taken into account during the preparation of the budget for 2002 and which would ensure the financing of the peace commitments. However, very little progress has been made in the implementation of some measures, such as the signing of an agreement with the World Bank to launch the national programme to combat corruption.

Decentralization and social participation

45. Decentralization has begun, through institutional and financial strengthening of municipal governments, establishment of a system of participation at the local level and sectoral decentralization, mainly in the areas of health and education. The recent amendments to the Municipal Code, the Development Councils Act and the General Decentralization Act are a step forward in

the reform of the State provided for in the Peace Agreements. They will make it possible to open up channels for participation and oversight in social matters, and to reinforce local management. However, as most of the country's municipalities have debts and financial problems, decentralization efforts have suffered. Various reports have drawn attention to the lack of coordination and institutional overlapping between various State bodies as regards both planning and implementation of decentralization initiatives. A mechanism to coordinate and streamline the efforts to strengthen local institutions and redistribute functions and resources among them should be set out within the framework of the General Decentralization Act.

46. In 2001, a body was set up to coordinate domestic and international action and it developed and began to implement a strategy to strengthen that system. The initiative will have to be brought into line with the new Development Councils Act, and its success will depend on the continued involvement of the Secretariat for Planning and Programming. It will also seek to encourage wider and pro-active participation of social and community organizations, as provided for in the Act.

47. The establishment of the Presidential Unit for Dispute Settlement has made it possible to implement initiatives to reduce tensions in a number of flashpoints of conflict and violence, especially those which the State has not addressed in a timely manner. That Unit must remain in operation, be allocated resources and retain its institutional position as a State secretariat.

48. Following lengthy political negotiations, Congress approved the amendments to the Elections and Political Parties Act. On 5 March 2002, the Constitutional Court announced that it had found constitutional problems in four articles. The proposed amendments went beyond the agenda set out in the Peace Agreements and addressed many aspects relating to Guatemala's overall political system. The amendments relating to voter documentation, promotion of voter registration, decentralization of electoral councils and civic education campaigns are among those which will require concentrated technical effort from the Supreme Electoral Tribunal. I hope that Congress will give rapid approval to the Act, so that the Tribunal can make arrangements for its implementation.

Justice

49. I would reiterate the need for progress in complying with a number of pending commitments and recommendations relating to justice. They include developing a policy to combat crime which fully respects civil liberties and human rights, refining and maintaining measures to facilitate access to justice such as justice administration centres and community courts of the peace, legal advice centres (*bufetes populares*), criminal and civil public defenders, appointing bilingual judges, court translators and interpreters and producing legal glossaries, coordinating official State law and customary law, especially by applying International Labour Organization (ILO) Convention 169, and strengthening mechanisms to counter intimidation of and attacks on judicial officials.

50. Two years on from the adoption of the Career Judicial Service Act, I especially appreciate the action of the Career Judicial Service Council and Judicial Disciplinary Board, despite a few cases which were settled without observing the principles of the Act. The initial evaluation of the service of 66 judges is an important step in implementing that legislation. However, it would be appropriate to correct some of the evaluation criteria to guarantee that the process is effective and transparent. Bringing the Code of Judicial Ethics into force was another important step forward. The fact that the Institute for Public Defence has established legal offices for the defence of indigenous rights has improved their access to official justice. However, those achievements contrast with the cutting of the judiciary's budget for 2002, which could jeopardize the continuity of the modernization efforts.

51. Similarly, progress needs to be made on other important pending matters, such as the adoption of a modern code of general procedure which is in line with the commitments made through international agreements and treaties and the Peace Agreements, which encourages speed, directness and oral communication in non-criminal cases, and which reflects the multi-ethnic, multicultural and multilingual reality of the country, making ethnic discrimination and sexual harassment criminal offences, adopting legislation on children and youth which complies with the Convention on the Rights of the Child, and adopting a new act governing the judiciary. Integral reform of the prison system must also be carried further, and arrangements must be put in place to avoid

custodial sentences for minor crimes and misdemeanours and unnecessarily long pre-trial detention.

52. The National Commission for Monitoring and Supporting the Strengthening of the Justice System has a central role in modernizing the judicial system. It should be allocated the necessary financial, technical and human resources to fulfil that role, which includes following up the recommendations of the Special Rapporteur of the United Nations Commission on Human Rights on the independence of judges and lawyers.

Public security

53. As mentioned in previous reports, the population is witnessing a continued deterioration in the public security situation. In December 2001, the National Civil Police (PNC) met the target of 200,000 members, 12 per cent of whom are indigenous and 10 per cent are women. While the development of specialized units is continuing, priority must be given to improving PNC institutional capacities in the areas of criminal investigation and police information. The constant changes in its senior ranks and management are continuing to undermine the institutional stability and career structure of the police force. PNC needs to professionalize its personnel and acquire new equipment so that it can become a more effective public service and discharge its security functions.

54. The growing involvement of military personnel in public security in the past year is cause for concern. The Mission verified that the armed forces had assumed public security functions with no regard for the restrictions laid down in the Peace Agreements, which stipulate that they should act only for limited periods, under civilian authority and in exceptional circumstances. MINUGUA has also verified that military intelligence bodies have assumed investigative functions that rightfuliy belong to PNC. All of this reflects an unwillingness to allow the police to bear sole responsibility for public security. Moreover, the former Minister of Defence, after having retired, was appointed Minister of the Interior, a fact that does not augur well for the strengthening of either civilian power or the police.

55. The Government has not fulfilled its commitment to promote before the Congress legislation amending the Arms and Ammunition Act and regulating of private security firms. Legislators from the ruling party have submitted two proposals that do not meet the requirements laid down in the Peace Agreements. In addition to that legislation, a new Public Order Act is required.

56. The Advisory Council on Security has still not been created, although the Strategic Analysis Secretariat, at the request of the President of the Republic, is working on a proposal in that regard. This is a pending commitment whose importance has been stressed repeatedly and whose fulfilment is dependent on the Government's political will.

Information and intelligence

57. The end of 2001 was set as the deadline for fulfilment of the rescheduled commitments concerning information and intelligence. However, no bills have been drafted for the creation of a civil intelligence department in the Ministry of the Interior, nor has any progress been made on the law that was supposed to establish procedures for the legislative oversight of State intelligence agencies, even though civil society institutions have prepared studies on a national intelligence system and its oversight and control mechanisms. With regard to the regulation of access to information, in December 2001 the Strategic Analysis Secretariat submitted a legislative proposal incorporating a chapter on access to public information, which is currently under consideration. The Secretariat reported recently that civil society is being consulted on its proposal on the classification and declassification of restricted State information.

Armed forces

58. During 2001, the executive branch transferred funds repeatedly to the Ministry of National Defence, despite the target (0.66 per cent of GDP) established in the Peace Agreements and the provisions of the General Budget of State Revenues and Expenditures Act. The Ministry's budget is of the same order as during the period of the armed conflict (0.96 per cent of GDP). This runs counter to not only the spirit of the Budget Act but also the letter and the spirit of the Peace Agreements.

59. The armed forces do not provide any information on the precise use made of their budget and invoke the Constitution of the Republic to justify the use of funds

to procure military equipment as a military matter of national security.

60. The redeployment of military units is at a standstill. Although the formulation of a new defence policy and military doctrine could result in a more clearly defined redeployment, any units considered emblematic for their participation in the armed conflict and which have no role to play in national defence must be dismantled first. The drafting of a new military doctrine and its presentation to society for discussion are still pending. In November 2001, the Government invited civil society to discuss defence policy. The definition of military policy and the new military doctrine will make it possible to define the armed forces' new functions and could provide a basis for progress on other commitments, such as the reformulation of the Act organizing the Armed Forces. So far, there has been no substantive progress that would herald profound changes in the military education and training system.

61. The Secretariat for Administrative Affairs and Security (SAAS), created to replace the Presidential General Staff (EMP), assumed responsibility for the security of the Vice-President and his family in 2001, even though operational command still rests with EMP. Verification established that EMP has not begun the progressive transfer of equipment and budget to SAAS as required. The Secretariat is continuing its institutional development: it has trained 200 new staff in three classes and has begun to train a fourth class that will graduate in early 2003. The Government plans to cut some EMP staff in the short term and to include in the 2003 budget the funds needed to compensate EMP members; this is a welcome step.

III. Final observations

62. The analysis presented in this report reveals a twofold challenge: the need for the progress made in the peace process to be consolidated and for it to translate into benefits for the population as a whole and into the fulfilment of outstanding commitments. The road to a firm, lasting and irreversible peace in Guatemala is still being built and it is vital that it be given decisive impetus.

63. I call on the Government and on all citizens to set aside conflict, fulfil their respective responsibilities in upholding democratic values and revive the constructive spirit that prevailed at the Consultative Group meeting. This is essential in order for tangible progress to be made in implementing the Peace Agreements ratified on that occasion. I urge the actors involved to place the national interest before private and sectoral interests.

64. Impunity arouses fear among the population and encourages the repetition of acts of violence. The Government must urgently design and apply a strategy to counter the wave of violence, threats and acts of intimidation against members of civil society. Such a strategy should include preventive measures, as well as measures to ensure that incidents are investigated thoroughly and that those responsible are punished.

65. The sustainability of the peace process calls for sound State and civil society institutions capable of promoting and supporting the fulfilment of the peace agenda. Special mention should be made of the institutions set up under the peace progress: the Follow-up Commission, the joint commissions on specific issues and the departmental forums for consultation and follow-up of the peace process. They have the important role of following up and promoting the implementation of the outstanding agenda.

66. The Public Prosecutor's Office needs to be strengthened so that it can overcome its deficiencies and weaknesses, especially with regard to the coordination of criminal investigation activities with the National Civil Police (PNC). It is also essential that PNC should have the resources it needs; I am deeply concerned therefore at the cuts in its budget for 2002 as compared with 2001: 20 per cent for PNC itself and 72 per cent for the Police Academy.

67. I am gravely concerned at the budgetary constraints placed on institutions and programmes given priority under the peace process, especially when I find that special budgetary transfers have been made to the armed forces. I am also concerned to see that, five years after the signing of the Peace Agreements, the armed forces and former soldiers are still being called on far too often to direct and carry out strictly civilian functions, a situation that is all the more serious in the case of the Ministry of the Interior.

68. Other issues that warrant special attention on the part of the Guatemalan State are: fulfilment of the commitments pending from the Agreement on Identity and Rights of Indigenous Peoples and the agreements on resettlement and reintegration; consensus adoption and launching of a rural development policy; implementation of the recommendations of the Historical Clarification Commission; fulfilment of the Fiscal Pact in its entirety; and the commitments concerning security, beginning with the establishment of the Advisory Council on Security and the preparation by consensus of a defence policy.

69. The adoption of the Decentralization and Development Councils Acts and the amendment of the Municipal Code afford an excellent opportunity for relaunching social participation in decision-making and in overseeing the exercise of public power. The corresponding regulations must be formulated promptly so that these laws can take effect as soon as possible. I appeal to civil society to seize the opportunity and avail itself of these new forums to influence the execution of public policy.

70. The international community has an important role to play in ensuring the success of the Guatemalan peace process, which it has been supporting from the start. I wish to offer special thanks to the countries friends of the Guatemalan peace process and the other cooperating countries and agencies for their renewed commitment to the Peace Agreements expressed at the Consultative Group meeting. That meeting offered an invaluable opportunity for the international community, in a dialogue with State and civil society institutions, to reorganize its plans of action and lines of cooperation for consolidating the peace process.

71. I wish to encourage the Government and people of Guatemala to redouble their efforts to consolidate the peace process and make sure that it becomes irreversible. National efforts to combat poverty and exclusion, modernize the democratic system and attain the full exercise of human rights and the rule of law need concerted support. The road ahead is full of major challenges that must be tackled with a vision of a country that provides a better life for all Guatemalans. I reiterate the commitment of the Organization and of the entire United Nations system in Guatemala to supporting the effective progress of the peace process.